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10/527,911	11/07/2005	Michael James Knee	P-7786-US	9050
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Pearl Cohen Zedeck Latzer, LLP 1500 Broadway 12th Floor New York, NY 10036			YEH, EUENG NAN	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/527,911	<b>Applicant(s)</b> KNEE ET AL.
	<b>Examiner</b> EUENG-NAN YEH	<b>Art Unit</b> 2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 September 2009.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 13-20,22,23 and 33 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12,21,24-32 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/06)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**FINAL ACTION**

***Response to Amendment***

1. The following Office Action is responsive to the amendment and remarks received on September 10, 2009. Claims 1-12, 21, and 24-32 remain pending.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-4, 6-8, 12, 24-27, and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Castagno et al. (IEEE Vol. 8, No. 5, Sep. 1998, 562-571), Park et al. (US 6,535,632 B1), and Trew et al. (US 6,173,077 B1).

Regarding claims 1, Castagno discloses a segmentation system comprising:

- representing the data as points in a segmentation vector space which is the product of the vector space of feature values and the vector space of pixel addresses (as depicted in figure 2, "Fig. 2 shows a segmentation at the region level. For the sake of simplicity, we have selected a case in which the coherence within each region is based on gray level and color" at page 564, right column, line 1. See also "We have tested approximately 20 different features, chosen among color components (such as

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RGB, YUV, LSH, normalized RGB, and others), displacement values (the horizontal and vertical components of the optical flow), position values (the absolute x and y coordinates), and texture information ..." at page 565, left column, bottom paragraph);

- representing segments as locations in the segmentation vector space (as depicted in figures 3-5: "Figs. 3-5 show three examples of how the same segmentation at the region level can yield different segmentations at the object level" at page 564, right column, line 4. See also "We have tested approximately 20 different features, chosen among color components (such as RGB, YUV, LSH, normalized RGB, and others), displacement values (the horizontal and vertical components of the optical flow), position values (the absolute x and y coordinates), and texture information ..." at page 565, left column, bottom paragraph);

- determining a segment for each pixel by the distance in segmentation vector space from the data point representing the pixel to the location of the segment ("The features that we propose to use in our segmentation scheme belong to four groups (color, motion, position, and texture). Each one is characterized by quite different ranges of possible values ... In order to process this information in parallel, it is therefore necessary to introduce some form of normalization that allows us to define a distance which is easily measurable. A common solution is known as Mahalanobis distance ... The use of the Mahalanobis distance therefore induces a distance between two vectors  $f_m$  and  $f_n$  in the feature vector space ..." at page 565, right column, bottom paragraph).

Castagno suggests motion and position as features of segmentation vector space. Castagno does not explicitly disclose that distance can be used as membership measurement in the segmentation vector space. Furthermore, Castagno does not explicitly disclose displaced frame difference, DFD, in segmentation vector space and how to calculate DFD.

Park, in the same field of endeavor of color image processing ("object tracking and image segmentation" at column 1, line 27), teaches the cluster segmentation determination as depicted in figure 10: "process for allocating input vectors into clusters is performed for each input vector (step 84). Such process is based upon a minimum distance measure. In various embodiments an euclidean distance, an absolute distance or some other distance measure is used. In one embodiment the euclidean distance is used. An input vector is allocated to a cluster to which it has a minimal euclidean distance with the cluster's prototype vector. At step 86, the prototype vector closest to the input vector is found. As a self-organizing control for allocating data into clusters, a vigilance parameter, also referred to herein as a vigilance value, is used. A vigilance test is performed at step 88. If the minimum euclidean distance is not less than the vigilance value, then a new cluster is defined at step 90. The input vector is assigned to such new cluster and becomes the initial prototype vector for such new cluster. If the minimum euclidean distance is less than the vigilance value, then the input vector is assigned to the cluster corresponding to the closest prototype vector at step 92 ..." at column 10, line 37. Thus, the distance determines the membership of input vector. Furthermore, "various subsystems are implemented in software on one or more host

computing devices or are integrated into an embedded system. Preferably the functions of the various subsystems are performed by programmed digital computers of the type which are well known in the art. A host computer system for embodiments of the invention typically includes a display monitor, a keyboard, a pointing/clicking device, one or more processors or multiprocessors ..." at Park column 4, line 59.

It would have been obvious at the time the invention was made, that one of ordinary skill in the art would have been motivated to include the segmentation system Castagno made with membership determination algorithm as taught by Park, in order to properly classify each segment such that "an input vector is allocated to a preexisting cluster or a new cluster" at column 10, line 55.

The combination of Castagno and Park does not explicitly disclose how to calculate displaced frame difference, DFD, and DFD is one of the feature values.

Trew, in the field of endeavor of image segmentation ("present invention aims to provide an approach to temporally consistent segmentation" at column 2, line 15), suggests, "[i]n order to detect inaccurate motion vectors the embodiment calculates a displaced frame difference (DFD) of each pixel. The DFD represents per pixel the error between a frame and the estimate of that frame provided by the motion vectors based on the neighbouring frames. An excessive DFD may thus indicate that the motion vectors for a particular pixel are invalid. The DFD is then used to identify where the segmentation predicted by the motion vectors requires correction" at column 3, line 7. See also figure 3 and column 6, line 66 to column 8, line 7 for displaced frame difference operation. Especially, "At step 7 (*Figure 3*) the value of DFD is tested for

each pixel to determine whether it exceeds a threshold T ..." at Trew column 7, line 63. Thus, Trew teaches that the DFD can be used to avoid improper segmentation in order "to produce temporal consistency to the segmentation of a motion picture sequence containing moving objects" at Trew column 2, line 25.

It would have been obvious at the time the invention was made, that one of ordinary skill in the art would have been motivated to include the segmentation system of the Castagno and Park combination, with displaced frame difference (DFD) as one of the feature values as taught by Trew, such that "[t]he DFD is then used to identify where the segmentation predicted by the motion vectors requires correction" at column 3, line 13.

Regarding claim 2, the segments are represented as points (as depicted in Castagno figure 2, "Fig. 2 shows a segmentation at the region level ..." at page 564, right column, line 1. The segments are represented as points).

Regarding claim 3, the segments are represented as linear functions mapping the vector space of pixel locations to the vector space of pixel values (as depicted in Castagno figure 2, segmented pixel point position (x, y) maps and one-to-one corresponds to the gray level value of the image. "Fig. 2 shows a segmentation at the region level ... each region is based on gray level and color" at page 564, right column, line 1).

Regarding claim 4, the distance measure is a Euclidean distance (discussed in claim 1, "...Such process is based upon a minimum distance measure. In various embodiments an euclidean distance, an absolute distance or some other distance measure is used. In one embodiment the euclidean distance is used. ..." at Park column 10, line 38).

Regarding claim 6, the coordinate axes are scaled to equalize the variances of the data along each axis ("The features that we propose to use in our segmentation scheme belong to four groups (color, motion, position, and texture). Each one is characterized by quite different ranges of possible values: color information typically ranges from 0 to 255, motion spans a more limited interval (for example, pixels/frame), the x and y coordinates are limited by the size of the image, while the texture information shows the biggest variations. In order to process this information in parallel, it is therefore necessary to introduce some form of normalization that allows us to define a distance which is easily measurable" at Castagno page 565, right column, bottom paragraph. The variance is used in equation 3 at page 565).

Regarding claim 7, the coordinate axes are scaled in order to minimize the product of errors evaluated along each axis, with the constraint that the scaling factors sum to a constant value ("In the experiments, we gave a weight of 10% to the position information (x and y coordinates), and 5% to the texture information. The motion and the color information adaptively share the remaining 85% according to their reliability,

with the qualitative behavior shown in Fig. 8" at Castagno page 568, right column, line 3. Thus, the total weighting sum is 100% and "allocates relative weight to features according to their local degree of reliability" at page 566, left column, line 25. The reliability i.e. minimize the product of errors is discussed at page 567, in Section III-E3 "Confidence Measure Derived from the Optical Flow Estimation Method").

Regarding claim 8, the distance measure is a Mahalanobis distance (discussed in claim 1, "...A common solution is known as Mahalanobis distance ..." at Castagno page 565, right column, line 41).

Regarding claims 12, for each picture of initially assigning pixels to segments according to the segment membership of the respective pixel in the preceding picture in the sequence ("...The segmentation results obtained for the current frame are eventually used as initialization for the FCM procedure at frame n+1 ..." at Castagno page 568, right column, line 42. Thus, the initially assigning pixels to segments is taken from the preceding picture).

Regarding claim 24, each pixel is chosen to be a member of a single segment determined by minimizing the distance measure ("... An input vector is allocated to a cluster to which it has a minimal euclidean distance with the cluster's prototype vector ..." at Park column 10, line 42.)

Regarding claim 25, the number of segments is chosen by the user ("We define a region as an area of the frame which homogeneous according to given quantitative criteria, such as gray level, color, texture, motion, or—in the most general case—a combination of them" at Castagno page 564, left column, line 1. Thus, the user defines regions of the frame).

Regarding claim 26, the number of segments is chosen as a function of the input data ("Our definition of object is in full accordance with the concept of video object as defined in the framework of MPEG-4, 'an entity in a scene that a user is allowed to access (seek, browse), and manipulate (cut and paste)' ... objects are strongly characterized by their semantic content ..." at Castagno page 564, left column, line 7. See also "In one implementation for a sequence of image frames, such filtering allows for improved image object tracking ability and improved image object segmentation" at Park column 2, line 46. Thus, the quality and characteristic of data can affect the number of segments).

Regarding claim 27, the number of segments is chosen so that the variance of an overall error measure approaches a predetermined value ("...introduction of a spatial constraint that biases the algorithm so as to encourage adjacent pixels to be assigned to the same class. The proposed modification, called constrained fuzzy C-means (CFCM) ... In our approach, the standard FCM algorithm is used to obtain an initial

segmentation, and the spatial constraint is introduced in a second round of iterations aimed at refining the result" at Castagno page 568, right column, line 22).

Regarding claim 29, the representations of segments in the vector space are updated according to the segment membership of pixels ("As is the case for the FCM algorithm, the fuzzy partition of the data set can be obtained by iteratively updating the centroids and the degree of belongingness of each vector to the classes" at Castagno page 568, right column, line 32. This is to say that the fuzzy partition of the data set which represents the segment in the vector space is updated according to the degree of belongingness of each vector to the classes).

Regarding claim 30, the processes of assigning pixels to segments and of updating the representations of segments are repeated alternately ("As is the case for the FCM algorithm, the fuzzy partition of the data set can be obtained by iteratively updating the centroids and the degree of belongingness of each vector to the classes" at Castagno page 568, right column, line 32. This is to say that the degree of belongingness of each vector which assigns pixels to segments and the centroids of the fuzzy partition of the data set which represents the segment are iteratively updated).

Regarding claim 31, the initial segmentation is taken from the previous picture in a sequence of pictures ("...The segmentation results obtained for the current frame are eventually used as initialization for the FCM procedure at frame n+1 ..." at Castagno

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page 568, right column, line 42. Thus, the initial segmentation is taken from the previous picture).

Regarding claim 32, the displaced frame differences are calculated by applying motion vectors derived from the current state of the segmentation to the input pixel data ("In order to detect inaccurate motion vectors the embodiment calculates a displaced frame difference (DFD) of each pixel. The DFD represents per pixel the error between a frame and the estimate of that frame provided by the motion vectors ... The DFD is then used to identify where the segmentation predicted by the motion vectors requires correction" at Trew column 3, line 7).

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Castagno, Park, and Trew as applied to claim 1 discussed above, and further in view of Aggarwal et al. (US 6,728,706 B2).

Regarding claim 5, the Castagno, Park, and Trew combination teaches that the distance used can be Euclidean or Mahalanobis. The Castagno, Park, and Trew combination does not explicitly teach the Manhattan distance.

Aggarwal, in the file of endeavor of image similarity search ("Similarity searches are performed on the basis of similarity functions" at column 4, line 24), teaches distance metrics, such as Manhattan distance, used to determine the similarity during search phase: "In this feature space, each product is represented by a feature vector corresponding to the feature values extracted for it in step 240 (*figure 2*)" at column 7,

line 8. Furthermore, "feature values in the database will have different ranges, for example, (maximum value over the entire database--minimum value over the entire database). Consequently, features with a larger range dominate over a feature with smaller range when, for example, Manhattan, Euclidean, or Mahalanobis distance metrics are used for determining the similarity between two products during the search phase" at column 7, line 46.

It would have been obvious at the time the invention was made to one of ordinary skill in the art to be motivated to include the segmentation system of the Castagno, Park, and Trew combination with Manhattan distance metric as taught by Aggarwal, not only for its mathematical simplicity and calculatingly fast but also to ensure that "none of the features are given undue importance when calculating similarity metrics" at column 7, line 59.

5. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Castagno, Park, and Trew as applied to claim 1 discussed above, and further in view of Price et al. (US 5,606,164).

Regarding claim 9, the Castagno, Park, and Trew combination teaches: - measuring a distance in segmentation vector space of each pixel to each segment location to determine the membership (discussed in claim 1, for determining the membership of a segment).

The Castagno, Park, and Trew combination does not explicitly disclose the usage of covariance matrix.

Price, in the field of endeavor of data analysis ("measuring biological fluid analyze concentration using outlier identification and removal based on generalized distances" at column 3, line 12), discloses the usage of principal component analysis on the generalized distances: "... the calibration data set may be reduced to significant factors using principal component analysis or partial least squares scores, enabling calculation of regression coefficients and artificial neural network weights" at column 3, line 38. And "... generalized distance between a sample and the centroid defined by a set of samples may be determined using the variance-covariance matrix of the set of samples ... Further, by using principal component scores to represent spectral data for each sample, independent variables maximizing the information content may be obtained, insuring an invertible approximate variance-covariance matrix. With respect to Mahalanobis distance, an approximate centroid may be determined as the centroid of a multivariate normal distribution of the set of calibration samples and an approximate variance-covariance matrix of the set of calibration samples, whereby an approximate Mahalanobis distances in units of standard deviations measured between the centroid and each calibration sample may be found ..." at column 5, line 17. Thus, Price teaches:

- a) determining a covariance matrix of the image data in each segment;
- b) distance determined using variance-covariance matrix.

It would have been obvious at the time the invention was made, that one of ordinary skill in the art would have been motivated to include the segmentation system of the Castagno, Park, and Trew combination with covariance matrix application as

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taught by Price, such that by "using principal component scores to represent spectral data for each sample, independent variables maximizing the information content may be obtained, insuring an invertible approximate variance-covariance matrix" at column 5, line 25.

Regarding claim 10, covariance matrix (discussed at Price column 11, equation (7), where S is the covariance matrix).

Regarding claim 11, distance measurement (discussed at Price column 11, equation (6) for the Mahalanobis distances).

6. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Castagno, Park, and Trew as applied to claims 1, 25, 26, and 27 discussed above, and further in view of Penn (US 5,848,198).

Regarding claim 28, the combination of Castagno, Park, and Trew teaches segmentation processing with chosen number of segments as discussed in claims 25, 26 and 27. The Castagno, Park, and Trew combination does not explicitly teach that the process can be in parallel.

Penn, in the field of endeavor of processing digitized images ("for detecting, identifying, and analyzing anomalies and abnormalities within the images" at column 1, line 12), provides "a new and improved method of and apparatus for achieving significant reduction in image data processing time by using a methodology which is

amenable to parallel processing ..." at column 16, line 27. The processing involves such as "...(iii) a coded method of segmenting the Analysis Image according to the locations of the fractal-like forms. (iv) a coded procedure for obtaining a set of binary images for each segment ..." at column 7, line 61. Furthermore, "determine a relative merit of the performance measure, a 'best measure' is initialized either high or low as per the specification and stored in computer memory 32 (*figure 1*) ..." at column 26, line 39.

It would have been obvious at the time the invention was made, that one of ordinary skill in the art would have been motivated to include the segmentation system of the Castagno, Park, and Trew combination with parallel processing methodology as taught by Penn, for the purpose of "achieving significant reduction in image data processing time" at column 16, line 18.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Castagno et al. (IEEE Vol. 8, No. 5, Sep. 1998, 562-571), Park et al. (US 6,535,632 B1), and Min et al. (International Conference on Pattern Recognition, Vol. 1, September 3-7, 2000, pp. 644-647).

Regarding claim 21, Castagno discloses a segmentation system comprising:

- representing the image data as points in a segmentation vector space which is the product of the vector space of feature values and the vector, space of pixel addresses (as depicted in Castagno figure 2, "Fig. 2 shows a segmentation at the region level. For the sake of simplicity, we have selected a case in which the coherence

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within each region is based on gray level and color" at Castagno page 564, right column, line 1. See also "We have tested approximately 20 different features, chosen among color components (such as RGB, YUV, LSH, normalized RGB, and others), displacement values (the horizontal and vertical components of the optical flow), position values (the absolute x and y coordinates), and texture information ..." at Castagno page 565, left column, bottom paragraph);

- initially assigning pixels to segments represented as locations in the segmentation vector space (as depicted in Castagno figures 2-5: "Fig. 2 show a segmentation at the region level. For the sake of simplicity, we have selected a case in which the coherence within each region is based on gray level and color" at Castagno page 564, right column, line 1. The assigned segments will be represented as locations in the segmentation vector space: "Figs. 3-5 show three examples of how the same segmentation at the region level can yield different segmentations at the object level" at Castagno page 564, right column, line 4. See also "We have tested approximately 20 different features, chosen among color components (such as RGB, YUV, LSH, normalized RGB, and others), displacement values (the horizontal and vertical components of the optical flow), position values (the absolute x and y coordinates), and texture information ..." at Castagno page 565, left column, bottom paragraph);

- determining a segment for each pixel according to a distance measure from the data point representing the pixel to the representation of the segment ("The features that we propose to use in our segmentation scheme belong to four groups (color, motion, position, and texture). Each one is characterized by quite different ranges of

possible values ... In order to process this information in parallel, it is therefore necessary to introduce some form of normalization that allows us to define a distance which is easily measurable. A common solution is known as Mahalanobis distance ... The use of the Mahalanobis distance therefore induces a distance between two vectors  $f_m$  and  $f_n$  in the feature vector space ..." at page 565, right column, bottom paragraph).

Castagno suggests motion and position as features of segmentation vector space. Castagno does not explicitly disclose that distance can be used as membership measurement in the segmentation vector space. Furthermore, Castagno does not disclose the data can be in a toroidal space.

Park, in the same field of endeavor of color image processing ("object tracking and image segmentation" at column 1, line 27), teaches the cluster segmentation determination as depicted in figure 10: "process for allocating input vectors into clusters is performed for each input vector (step 84). Such process is based upon a minimum distance measure. In various embodiments an euclidean distance, an absolute distance or some other distance measure is used. In one embodiment the euclidean distance is used. An input vector is allocated to a cluster to which it has a minimal euclidean distance with the cluster's prototype vector. At step 86, the prototype vector closest to the input vector is found. As a self-organizing control for allocating data into clusters, a vigilance parameter, also referred to herein as a vigilance value, is used. A vigilance test is performed at step 88. If the minimum euclidean distance is not less than the vigilance value, then a new cluster is defined at step 90. The input vector is assigned to such new cluster and becomes the initial prototype vector for such new cluster. If the

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minimum euclidean distance is less than the vigilance value, then the input vector is assigned to the cluster corresponding to the closest prototype vector at step 92 ..." at column 10, line 37. Thus, the distance determines the membership of input vector. Furthermore, "various subsystems are implemented in software on one or more host computing devices or are integrated into an embedded system. Preferably the functions of the various subsystems are performed by programmed digital computers of the type which are well known in the art. A host computer system for embodiments of the invention typically includes a display monitor, a keyboard, a pointing/clicking device, one or more processors or multiprocessors ..." at Park column 4, line 59.

It would have been obvious at the time the invention was made, that one of ordinary skill in the art would have been motivated to include the segmentation system Castagno made with membership determination algorithm as taught by Park, in order to properly classify each segment such that "an input vector is allocated to a preexisting cluster or a new cluster" at column 10, line 55.

The combination of Castagno and Park does not explicitly disclose the toroidal data space.

Min, in the field of endeavor of image segmentation ("We have developed an automated framework for performance evaluation of curved-surface range image segmentation algorithms" at Min page 644, abstract), teaches curved-surface segmentation, "[t]he image dataset includes planar, spherical, cylindrical, conical, and toroidal surfaces ..." at page 644, abstract. "We compared two curved-surface range segmentation algorithms, The Jiang and Bunke algorithm gives a higher rate of

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correctly segmented regions and has a much faster execution time ..." at page 646, section 6, second paragraph. Thus, Min teaches curved-surface dataset segmentation algorithms applicable to segment vector spaces having toroidal surfaces.

It would have been obvious at the time the invention was made, that one of ordinary skill in the art would have been motivated to include the segmentation system of the Castagno and Park combination, with curved-surface segmentation such as toroidal surface as taught by Min, so the segmentation needs not be limited to planar region as discussed above.

### ***Response to Arguments***

#### **a) Summary of Applicant's Remark:**

The previous USC § 101 rejections should be withdrawn in view of the amendment.

#### **Examiner's Response:**

Examiner agrees, and the previous USC § 101 rejections are withdrawn.

#### **b) Summary of Applicant's Remark:**

"Including DFDs as part of the distance measurement leads to an elegant balancing in the segmentation process of the physical closeness of pixels, the closeness in RGB or other values of the pixels and the similarity of the motion vectors

allocated with varying degrees of accuracy at the pixels. In contrast, the good approach of Trew et al. is to use the DFD to decide whether or not to throw away the motion vector" at Remarks page 8, line 16.

"Additionally, Applicants point out that the passage quoted by the Examiner at column 3, line 13 of Trew et al. must be read in context. The immediately preceding sentence in Trew et al. states that "an excessive DFD may thus indicate that the motion vectors for a particular pixel are invalid". Subsequently, the disclosure (see column 9, line 16 of Trew et al.) makes it clear that the "correction" referred to in the passage quoted by the Examiner consists of abandoning the attempt to make use of motion vectors and instead to employ one or more alternative techniques" at Remarks page 9, line 7.

*Examiner's Response:*

Trew teaches that the DFD can be used to avoid improper segmentation in order "to produce temporal consistency to the segmentation of a motion picture sequence containing moving objects" at Trew column 2, line 25. Refer to the rejections above for further discussion.

*c) Summary of Applicant's Remark:*

"The Examiner's rationale goes only to the first of these two points, and Applicants respectfully argue that the Examiner has not provided any rationale why one of ordinary skill in the art should take the counter- intuitive step of including a DFD in a distance in segmentation vector space" at Remark page 9, line 3.

Examiner's Response:

1> Please refer to Office Action (dated April 10, 2009) for the inclusion of Trew's methodology (same argument can also be found in this Office Action): "It would have been obvious at the time the invention was made, that one of ordinary skill in the art would have been motivated to include the segmentation system of the Castagno and Park combination, with displaced frame difference (DFD) ..." (emphasis supplied).

Refer to the rejections above for further discussion.

2> You need to "include" something before "use" it.

3> Please provide more evidence to support: "use" something but not "include" it.

4> Please provide more evidence to support: "counter-intuitive step of including a DFD in a distance in segmentation vector space".

d) Summary of Applicant's Remark:

"It is the canvas of the vector space that has the toroidal shape. However, this has nothing to do with the shape of any object in the image or of any segment" at Remarks page 11, line 4.

"In the present invention, the multidimensional segmentation space includes not only the locations of pixels in the plane of the image but also feature values at the pixel, such as RGB or motion vector values. The simple relationship between a planar region of the image, which might be regarded as depicting a curved surface in a real world object, does not therefore apply in this multidimensional space" at Remarks page 11, line 8.

**Examiner's Response:**

Castagno teaches the concept of multidimensional space. Park teaches the concept of distance with segmentation, and Min teaches the concept of curved-surface dataset such as toroidal surfaces for segmentation. It is the combination of Castagno, Park, and Min teaches the claimed subject matter.

**e) Examiner's General Remark:**

Applicant has not submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art. As it is Applicant's right to claim as broadly as possible their invention, it is also the Examiner's right to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality that allows for Applicant's invention to overcome the prior art used in the rejection, fails to differentiate in detail how these features of applicant's specification are. It is suggested that Applicant compare the original specification and claim language with the cited prior art used in the rejection section above to draw an amended claim set to further the prosecution. Examiner reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

**Conclusion**

8. Applicant's amendment is rejected in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eueng-nan Yeh whose telephone number is 571-270-1586. The examiner can normally be reached on Monday-Friday 8AM-4:30PM EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vikram Bali can be reached on 571-272-7415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/E.Y./

/VIKKRAM BALI/

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